RECORD, CASE No. 14,546.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1891.

TERM No., 1083.

LEONG MOY QUE, APPELLANT,

vs.

THE UNITED STATES.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

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1 *Petition.*

In the District Court of the United States, Northern District of California.

(Picture of petitioner.)

In the Matter of LEONG MOY QUI on *Habeas Corpus.*

To the Hon. Ogden Hoffman, judge of the district court of the United States, northern district of California:

The petition of Chun Wing On respectfully shows—

That Leong Moy Qui is unlawfully imprisoned, detained, confined, and restrained of his liberty by Captain Ward, master of the steamship Rio de Janeiro, in the city and county of San Francisco, State of California, northern district of California.

That the said imprisonment, detention, confinement, and restraint are illegal, and the illegality thereof consists in this, to wit:

That it is claimed by said master that said passenger is a subject of the Emperor of China and must not and cannot be allowed to land under the provisions of the act of Congress of May 6th, 1882, entitled "An act to execute certain treaty stipulations relating to Chinese," and the acts amendatory thereof and supplemental thereto.

That said passenger does not come within the restrictions of said acts, but, on the contrary, your petitioner alleges that said passenger was a resident of the United States on November 17th, 1880, and departed therefrom prior to June 6th, 1882.

That Leong Moy Qui is not a laborer, but is the wife of Chun Wing On, who is a merchant doing business in the firm of Yuen Lee, at No. 829 Washington street; that Leong Moy Qui is a citizen of the United States, 22 years of age, and was born at 910 Dupont street, San Francisco. Her father's name is Leong Chong Sing & her mother's Lum She.

That your petitioner makes this petition on behalf of said passenger.

Wherefore your petitioner prays that a writ of *habeas corpus* may be granted, direct- to the said master, commanding him to have the body of said passenger before your honor, at a time and place therein to be specified, to do and receive what shall then and there be considered by your honor concerning *him*, together with the time and cause of *his* detention and said writ, and that *he* may be restored to his liberty.

Dated on the 11th day of September, 1889.

(Chinese signature:) *Petitioner.*

STATE OF CALIFORNIA,
City and County of San Francisco, Northern District of California, United States of America, } ss:

Chun Wing On, being duly sworn, says that he is the petitioner above named, and that he has heard read the foregoing petition and

knows the contents thereof, and that the same is true of his own knowledge.

(Chinese signature.)

Sworn to before me this 11th day of September, 1889.

J. S. MANLEY,
Commissioner of the Circuit Court of the United States for the Northern District of California.

2 [Endorsed:] No. —. —— court of the United States, northern district of California. *In re* —— —— on *habeas corpus*. S. S. ticket No. —. Petition for writ.

(Endorsed:) Filed September 11th, 1889. Southard Hoffman, clerk, by —— ——, deputy clerk. F. E. Stranahan, attorney for petitioner.

Let the writ of *habeas corpus* issue, pursuant to the prayer of the petition, returnable forthwith, or, in case the steamer on which said petitioner is detained has not cleared on that day, as soon as practicable after clearance, but before the departure of the steamer; and when the within-named petitioner is produced let him be admitted to bail in the sum of $1,500. And ordered that the case be referred to Hon. Ward McAllister to take proofs and report findings and judgment, as prescribed in general order of this court in like cases.

OGDEN HOFFMAN, *Judge.*

3 *Writ of Habeas Corpus.*

In the District Court of the United States, Northern District of California.

In the Matter of LEONG MOY QUI on *Habeas Corpus*. No. 8828.

The President of the United States of America to Capt. Ward, master of the steamship Rio de Janeiro, Greeting:

You are hereby commanded that you have the body of the said person by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name the said person shall be called or charged, before the Honorable Ogden Hoffman, judge of the district court of the United States for the northern district of California, at the court-room of said court, in the city and county of San Francisco, California, forthwith; or, in case the steamer on which said petitioner is detained has not cleared on that day, as soon as practicable after clearance, but before the departure of the steamer, to do and receive what shall then and there be considered in the premises.

And have you then and there this writ.

Witness the Honorable Ogden Hoffman, judge of the said district court, and the seal thereof, at San Francisco, in said district, on the 11 day of September, A. D. 1889.

[SEAL.] SOUTHARD HOFFMAN,
Clerk of said District Court,
By J. S. MANLEY, *Deputy Clerk.*

4 [Endorsed:] No. —. District court of the United States, northern district of California. In the matter of —— —— on *habeas corpus*. S. S. ticket No. —. Writ of *habeas corpus* and return thereto. Issued ——, 189–. Returnable ——, 189–.

(Endorsed:) Filed on return this 12 day of September, 1889. Southard Hoffman, clerk of said U. S. district court, by J. S. Manley, deputy clerk.

In obedience to the within writ, I hereby produce the body of Leon Moy Qui, as within directed, and return that I hold the said person in my custody, by direction of the customs authorities of the port of San Francisco, California, under the provisions of the Chinese restriction act.

A. CHESEBROUGH,
For Master Steamship City of Rio.

San Francisco, Sept. 11th, 1889.

5 *Marshal's Return to Writ.*

In the District Court of the United States, Northern District of California.

In the Matter of LEONG MOY QUI on *Habeas Corpus*. No. 8828.

The President of the United States of America to Capt. Ward, master of the steamship Rio de Janeiro, Greeting:

You are hereby commanded that you have the body of the said person by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name the said person shall be called or charged, before the Honorable Ogden Hoffman, judge of the district court of the United States for the northern district of California, at the court-room of said court, in the city and county of San Francisco, California, forthwith, or, in case the steamer on which said petitioner is detained has not cleared on that day, as soon as practicable after clearance, but before the departure of the steamer, to do and receive what shall then and there be considered in the premises.

And have you then and there this writ.

Witness the Honorable Ogden Hoffman, judge of the said district court, and the seal thereof, at San Francisco, in said district, on the 11 day of September, A. D. 1889.

[SEAL.] SOUTHARD HOFFMAN,
Clerk of said District Court,
By J. S. MANLEY, *Deputy Clerk.*

6 [Endorsed:] No. —. District court of the United States, northern district of California. In the matter of —— —— on *habeas corpus*. S. S. ticket No. —. Marshal's return of service of writ of *habeas corpus*. Issued ——, 189–. Returnable ——, 189–.

(Endorsed:) Filed on return this 11 day of Sept., 1889. Southard Hoffman, clerk of said U. S. district court, by —— ——, deputy clerk.

I, Southard Hoffman, clerk of the district court of the United States for the northern district of California, do hereby certify the foregoing to be a copy of the writ of *habeas corpus* issued in the within-entitled matter.

Attest my hand and seal of said district court this 11 day of September, A. D. 1889.

[SEAL.] SOUTHARD HOFFMAN, *Clerk*,
By J. S. MANLEY, *Deputy Clerk*.

I hereby certify that on the 11th day of September, 1889, I received the writ of which the within is a copy, and that on the 11th day of September, 1889, at San Francisco, in this district, I personally served the said writ by delivering to and leaving the same with Capt. Ward, master S. S. "Rio de Janeiro."

Dated San Francisco, Cal., September 12th, 1889.

J. C. FRANKS,
U. S. Marshal,
By JAMES R. DEANE,
Deputy Marshal.

7 *Intervention.*

United States District Court, Northern District of California.

In Re LEONG MOY QUI on *Habeas Corpus*. No. 8828.

To the honorable district judge:

And now comes John T. Carey, United States attorney for the northern district of California, and asks for leave to intervene for and behalf of the United States in the matter of the application made on behalf of the person first above mentioned for a writ of *habeas corpus*, and respectfully makes opposition to the said writ, and for grounds of intervention states as follows: That, as he is informed and believes, the said person in whose behalf said application was made has been and now is lawfully detained by the master of the steamship Rio de Janeiro, now in the port of San Francisco, northern district of California, in compliance with the provisions of an act of Congress of the United States entitled "An act to execute certain treaty stipulations relating to Chinese," approved May 6th, 1882, and the act amendatory thereof, approved July 5th, 1884, for the following reasons:

First. That the said person in whose behalf said application was made is by race, language, color, and dress a Chinese person, and a laborer by occupation, and has never been, previous to the filing of said application, in the United States, as the said intervenor is advised and believes.

Second. That the said person in whose behalf said application was made arrived at the port of San Francisco as a passenger on said vessel from Hong Kong, a foreign port or place in the Empire of China, and has failed to produce to the collector of customs for the port of San Francisco, California, or to any other officer authorized by law, the certificate of identification by said acts of Congress

provided and which is furnished to the Chinese laborer departing from the United States by the custom-house officers of the port of his departure.

Third. Intervenor denies, upon information and belief, that the said person in whose behalf said application was made is entitled to land in the United States, as is alleged in said application or otherwise.

Fourth. Intervenor denies, upon information and belief, that the certificate mentioned in the application was issued to the said person in whose behalf the same was made or that *he* is the person named in said certificate.

Wherefore the said United States attorney asks that a judgment and order of this honorable court be made and entered in accordance with the allegations herein contained and directing that the said person first above mentioned be detained on board of said vessel until released as provided by law, or, otherwise, to be returned to the country from whence *he* came, and that such further order be made as to the court may seem proper and legal in the premises.

JOHN T. CAREY,
United States Attorney.

8 [Endorsed:] No. —. United States — court, northern district of California. *In re* —— —— on *habeas corpus.* Intervention of United States.
(Endorsed:) Filed Sept. 12th, 1889. Southard Hoffman, clerk. John T. Carey, U. S. attorney.

9 *Report of Referee, &c.*

In the District Court of the United States, Northern District of California.

In the Matter of LEONG MOY QUE on *Habeas Corpus.* No. 8828.

Before Ward McAllister, Jr., special referee and examiner.

Pursuant to the order of the above-named court, duly made and entered herein pursuant to the order of said court, duly made and entered on the 9th day of July, A. D. 1888, referring the above-entitled matter to the undersigned, a special referee and examiner of said court, with instructions to find the facts and his conclusions of law and to report a judgment therein, the said matter having been regularly brought on for hearing and the same having been duly heard and submitted and due consideration having been thereon had, I, the said special referee and examiner, do find as follows:

That the above-named petitioner is a Chinese laborer & a subject of the Empire of China.

That said petitioner came to the United States from China by the steamship Rio de Janeiro on the — day of ——, A. D. 1888.

And as a conclusion of law I find that said petitioner has not by sufficient evidence established *his* right to re-enter and remain in

the United States in accordance with the treaties and laws of the United States.

I do therefore report that, in my opinion, judgment should be entered herein—

That said petitioner was not at the date of the petition herein illegally restrained of liberty as therein alleged, and that the said petitioner be returned by the United States marshal for the northern district of California to the custody whence *he* was taken, to wit, on board the said steamship, to the custody of the master thereof, for the purpose of deporting *him* out of the United States and transporting *him* to the port whence *he* came.

Exceptions to the above report were taken by the petitioner.

WARD McALLISTER, JR.,
Special Referee and Examiner.

The above report of the special referee and examiner is confirmed and judgment is ordered to be entered in accordance therewith.

——— ———,
District Judge.

10 [Endorsed:] Remand. Exceptions by petitioner. No. —. District court of the United States, northern district of California. In the matter of ——— ——— on *habeas corpus*. Report of special referee and examiner.

(Endorsed:) Filed November 6th, 1889. Southard Hoffman, clerk U. S. district court, northern dist. of California, by J. S. Manley, deputy clerk. Mr. Stranahan, attorney for petitioner.

11 In the District Court of the United States in and for the Northern District of California.

The Hon. Ward McAllister, Jr., commissioner.

In the Matter of the *Habeas Corpus* of LEONG MAY QUE. No. 8828.

Testimony.

TUESDAY, *October* 15*th*, 1889.

LEONG MAY QUE, the petitioner, sworn.

Mr. WELLER:

Q. Where were you born?
A. I was born over Doong Hop's, Dupont street, this city.
Q. How old are you?
A. 20.
Q. Are you married?
A. Yes, sir.
Q. Where is your husband?
A. Over there (pointing).
Q. When did you go to China?
A. Kwong Sue 7th year, Intercallery 7th month, 28th day—September 20th, 1881.

Q. By what steamer?
A. The Gaelic.
Q. Who did you go to China with?
A. With my mother and father.
Q. What is your father's name?
A. Leong Jung Sing.
Q. What company does he belong to?
A. The Hop Wah Company.
Q. Where is he now?
A. In China.
Q. When were you married?
12 A. Kwong Sue 13th year—1887.
Q. How old were you when you went home?
A. 12 years old.
Q. Has your father ever returned to this country since he went to China with you?
A. No, sir.
Q. Your husband is here, you say?
A. Yes, sir.

CHIN MING ON, called for the petitioner, sworn.

Mr. STRANAHAN:

Q. What firm are — connected with?
A. The pawnbroker shop Goon Wah Ot, 639 Jackson street.
Q. What is your business?
A. Pawnbroker.

Mr. WELLER:

Q. Do you know the petitioner?
A. Yes, sir; she is my wife.
Q. When and where were you married to her?
A. I married her in Kwong Sue 13th year—1887.
Q. Do you know her father?
A. Yes, sir.
Q. What is his name?
A. Leong Jung Sing.
Q. When did you return to this country?
A. Last year.
Q. What do you do?
A. Pawnbroker.
Q. Where?
A. 639 Jackson street—Goon Wah Ot.
Q. How many partners have you?
A. Three.
Q. How much interest have you in the firm?
A. My father turned over to me his interest of $1,000.
Q. Why did you not bring your wife back with you?
A. That time my mother was sick, so I left her to attend to my mother.
Q. Did you send for her this year?

A. Yes, sir.

13 The COMMISSIONER: What was the matter with your mother?

A. I do not know; she was sick.

Q. Was she sick when you married this woman (pointing to his wife)?

A. Yes, sir.

Q. Where was this woman born—here in San Francisco?

A. Yes, sir.

Mr. WELLER: How do you know?

A. I knew her when she was a little child.

Q. Where was she born?

A. Over Doong Hop's, Dupont street.

Q. What did her father do when he was here?

A. Her father was a partner of mine.

Q. Were you here when they went to China?

A. Yes, sir.

Q. Who bought their tickets for them—do you know?

A. I think my partner.

Q. Have you got any books showing the entry?

A. Yes, sir; the purchase of tickets.

Q. Produce and read the entry.

(The witness produced a book, which he handed to Interpreter Loui Mong.)

Interpreter LOUI MONG (reading): "Leong Jung Sing. Kwong Sue 7th year, Intercalery 7th month, 28th day. Steamer Gaelic. Two days before deposited $658. That day purchased steamer ticket for him, $53; pay his Hop Wah Co.'s dues, $8; purchased ticket for Lem Shee, $53; purchased ticket for Leong May Que, one-half ticket, $26.50; pay their carriage, $4.00; drew altogether $144.50, leaving a balance of $513.50; returned to him on the same day."

Mr. WELLER:

Q. Is this the same girl as mentioned in that account?

A. Yes, sir.

14 The COMMISSIONER:

Q. Have you any children?

A. Not yet.

Q. How long have you been married?

A. About two years.

Q. How old are you?

A. 35.

Q. How old is your wife?

A. 20.

Q. How long have you lived in California?

A. Over 20 years.

Q. Then how old is your wife?

A. 20 years old.

Q. When did you first meet her?

A. I met her when she came to our store.
Q. How old was she when you first knew her?
A. She was very small. Her father brought her to the store.
Q. Have you known her ever since?
A. Yes, sir.
Q. When you first met her what were you doing?
A. I was in the store; a partner.

LEONG MAY QUE recalled.

The COMMISSIONER:

Q. When did you first meet your husband?
A. I knew him in this city.
Q. How old were you—about—when you first remember seeing him?
A. About 6 or 7 years old.
Q. How long have you been married to him?
A. About two years.
Q. Where is your father now?
A. In China.
Q. Where is your mother?
A. They are both in China.
Q. Why did you not come with your husband to this country?
A. My mother-in-law was sick, so my husband left me to take care of her.
Q. Have you any relatives here?
A. A few of them are here.
Q. You have relations here in San Francisco?
A. Yes.
Q. What? Uncles, aunts, cousins, or what?
A. Uncle.
Q. Here in San Francisco?
A. Yes, sir.
Q. How many?
A. Two.
Q. What are their names?
A. Leong Ah Yook.
Q. What is the other one's name?
A. Leong Sing Gum.
Q. Where do they live?
A. On Jackson street.
Q. Whereabouts?
A. I do not know what number.
Q. Are they here in court?
A. Yes, sir; one is here.
Q. Pick him out; point to him.
A. That one there (pointing to a Chinaman named Young Chow).
Q. You say that is your uncle?
A. Yes, sir.
Q. Your mother's brother or father's brother?
A. My father's brother.

Q. This name here (pointing to Young Chow)?
A. Yes, sir.
Q. (To Interpreter Loui Mong.) Did she say uncle or one of the family?

16 Interpreter LOUI MONG: "Ah Shook."
The COMMISSIONER: What is that?
The interpreter, LOUI MONG: Father's brother.
The COMMISSIONER: Mr. Ruddell, will you kindly open your book on September 20th, 1881, and see if there were any women on the Gaelic; and, if so, how many?
Mr. RUDDELL (after referring to the book): None.
Mr. STANAHAN: I object to the introduction of that evidence.
The COMMISSIONER: In this case I shall recommend a remand for the reason I do not believe the petitioner's story. I do not believe she is married to that man. She testified on her cross-examination by myself that she had an uncle here in court and points out one of these men as her uncle. I do not believe it is her uncle at all. I believe her testimony to be false and recommend a remand.
Mr. STRANAHAN: I take an exception.

(Endorsed:) Filed November 6, '89. Southerd Hoffman, clerk, by J. S. Manley, deputy clerk.

17 *Exceptions to Report of Referee.*

In the District Court of the United States, Northern District of California.

In Re LEONG MOY QUI on *Habeas Corpus.* No. 8828.

The said Leong Moy Qui hereby excepts to the report of the Hon. Ward McAllister, Jr., the commissioner to whom the above matter was referred, recommending the remand of the said Leong Moy Qui, on the grounds—

1. That said report is against law.
2. That said report is against the evidence.
3. Errors in the ruling of said commissioner arising during the examination of said matter and excepted to by petitioner.

Nov. 11th, 1889.

F. E. STRANAHAN,
Att'y for Petitioner.

(Endorsed:) Filed Nov. 11th, 1889. Southard Hoffman, clerk.

18 At a stated term of the district court of the United States of America in and for the northern district of California held at the court-room, in the city of San Francisco, on Thursday, the 26th day of September, in the year of our Lord one thousand eight hundred and ninety.

Present: The Honorable Ogden Hoffman, judge.

Order for Hearing.

In Re LEONG MOY QUI on *Habeas Corpus.* No. 8828.

In this matter, on motion of Geo. W. Schell, Esq., on behalf of the United States, it is ordered that the hearing on the exceptions to the report of the referee herein do now proceed; and F. E. Stranahan, Esqr., attorney for the petitioner, declining to argue said exceptions or make any suggestions to the court, on motion of Mr. Schell it is ordered that said exceptions be, and the same are hereby, overruled; and further ordered that the report of the referee recommending a remand be, and the same is hereby, confirmed; and it is further ordered that Leong Moy Qui be, and she is hereby, remanded; and the said Leong Moy Qui being present in open court, on motion of Mr. Schell it is ordered that she be taken into custody by the United States marshal, there to remain until the other or further order of the court.

19 *Order of Remand.*

In the District Court of the United States, Northern District of California.

In the Matter of LEONG MOY QUI on *Habeas Corpus.* No. 8828.

This matter having been regularly brought on for hearing before the court and the judge thereof upon the issues joined herein, the United States attorney having appeared and intervened on behalf of the United States, and the same having been duly heard and submitted and due consideration thereon had, it is by the court and the judge thereof now here ordered and adjudged—

That Leong Moy Qui, in whose behalf the writ of *habeas corpus* herein was sued out, was not at the date of the petition herein illegally restrained of her liberty, as therein alleged.

It is further adjudged and found that she came from China by the steamship Rio de Janeiro and is a Chinese person forbidden by law to land within the United States and has no right to be or remain therein.

It is therefore ordered that the said Leong Moy Qui be remanded by the United States marshal for the northern district of California to the custody whence she was taken, to wit, on board the steamship Rio de Janeiro, to the custody of the master of said steamship Rio de Janeiro, or in case of a change of master to the custody of the master thereof, whoever he may be, at the time of this order of remand, or to place the said Leong Moy Qui in the hands and charge of any party on board said steamship for the time being representing the master or then in charge of said steamship in the absence of the master or for the time being exercising control or authority thereon; this order to be executed as to said steamship, whether still in port, not having departed therefrom, or having departed and returned since the proceedings herein were instituted; and in case

said steamship has departed and not returned or for any other reason the said Leong Moy Qui cannot be placed on said steamship that the said marshal place her upon any other vessel available for the purpose, paying the necessary passage-money, for the purpose of deporting her out of the United States and transporting her to the port of Hong Kong, whence she came; and for the purpose of carrying this order into effect it is further ordered that the said marshal take the said Leong Moy Qui into custody and her safely keep till said order shall be fully executed.

Entered this 25th day of September, 1890.

OGDEN HOFFMAN, *Judge.*

20 [Endorsed:] Remand. No. —. United States district court, northern district of California. *In re* —— —— on *habeas corpus.* Order of remand.

(Endorsed:) Filed September 25th, 1890. Southard Hoffman, clerk U. S. district court, by J. S. Manley, deputy clerk.

21 *Substitution of Attorney.*

District Court of the United States, Northern District of California.

In Re LEONG MOY QUI on *Habeas Corpus.* No. 8828.

I hereby substitute Jas. F. Smith, Esq., as attorney for said Leong Moy Qui in the above-entitled matter in my place and stead.

F. E. STRANAHAN.

September 26th, 1890.

(Endorsed:) Filed Sep. 26, 1890. Southard Hoffman, clerk, by J. S. Manley, deputy clerk.

22 *Notice of Appeal.*

In the District Court of the United States, Northern District of California.

In the Matter of the *Habeas Corpus* of LEONG MOY QUI.

You will please take notice that the above-named Leong Moy Qui hereby appeals to the circuit court of the United States in and for the ninth judicial circuit, northern district of California, from the judgment and order of remand entered in the above-entitled matter made and entered in and by the district court of the United States, northern district of California, on the 25th day of September, A. D. 1890, and from the whole thereof.

Dated September 26th, 1890.

JAMES F. SMITH.

To the clerk of said district court and to the United States district attorney.

(Endorsed:) Service of the within admitted by copy this 26th day of Sep., 1890. John T. Carey, U. S. dist. att'y. Filed September 26th, 1890. Southard Hoffman, clerk, by J. S. Manley, deputy clerk.

23 At a stated term — the district court of the United States of America for the northern district of California held at the court-room, in the city of San Francisco, on Friday, the 26th day of September, in the year of our Lord one thousand eight hundred and ninety.

Present: The Hon. Ogden Hoffman, judge.

Order Fixing Bond on Appeal.

In Re LEONG MOY QUI on *Habeas Corpus.* No. 8828.

In this matter, on motion of the attorney for the petitioner, it is by the court ordered that the bond on appeal to the United States circuit court, northern district of California, be, and the same is hereby, fixed in the sum of $2,500.00.

24 *Dismissal of Appeal.*

In the District Court of the United States, Northern District of California.

In Re LEONG MOY QUI on *Habeas Corpus.* No. 8828.

The appeal heretofore taken in the above-entitled matter is hereby withdrawn and the same dismissed.

JAMES F. SMITH,
Att'y for Appellant

(Endorsed:) Filed Sept. 27th, 1890. Southard Hoffman, clerk, by J. S. Manley, deputy clerk.

25 *Substitution of Attorney.*

In the District Court of the United States, Northern District of California.

In the Matter of LEONG MOY QUI on *Habeas Corpus.* No. 8828.

I hereby substitute A. P. Van Duzer as the attorney in the above-entitled matter in my place and stead.

Dated September 29th, 1890.

JAMES F. SMITH,
Attorney for Petitioner.

(Endorsed:) Filed September 29th, 1890. Southard Hoffman, clerk, by J. S. Manley, deputy clerk.

26 *Notice of Appeal.*

In the United States District Court, Northern District of California.

In the Matter of LEONG MOY QUI. *Habeas Corpus.*

You will please take notice that the above-named Leong Moy Qui hereby appeals to the circuit court of the United States in and for the ninth judicial circuit, northern district of California, from the final judgment and order of remand and the dismissal of said writ of *habeas corpus* made and entered in the above-entitled cause by the said district court of the United States, northern district of California, on the 25th day of September, A. D. 1890.

And the same appeal is hereby taken on questions of both law and fact, and that grounds of said appeal are that said district court erred in applying the law to the facts in said cause, and also erred in its rulings as to the testimony offered in said cause.

A. P. VAN DUZER,
Attorney for Petitioner & Appellant, Leong Moy Qui.

To Southard Hoffman, Esq., clerk of said U. S. dist. court, and John T. Carey, Esq., U. S. att'y, and G. W. Schell, Esq., spec. U. S. att'y, S. F.

September 29, 1890.

(Endorsed:) Rec'd copy of within notice Sept. 29th, 1890. Geo. W. Schell, special ass't U. S. att'y. John T. Carey, U. S. att'y. Filed Sep. 29, 1890. Southard Hoffman, clerk, by J. S. Manley, deputy clerk.

27 At a stated term of the district court of the United States of America for the northern district of California held at the court-room, in the city of San Francisco, on Tuesday, the 30th day of September, in the year of our Lord one thousand eight hundred and ninety.

Present: The Honorable Ogden Hoffman, judge.

Order Staying Execution of Remand.

In Re LEONG MOY QUI on *Habeas Corpus.* No. 8828.

In this matter, on motion of A. P. Van Duzer, Esqr., attorney for the petitioner, Geo. W. Schell, Esqr., being present on behalf of the United States, and it appearing that a notice of appeal has been filed herein, it is ordered that the execution of the remand issued herein be, and the same is hereby, stayed until the other or further order of the court.

28 *Clerk's Certificate.*

UNITED STATES OF AMERICA,
Northern District of California, City and County of San Francisco, } ss:

I, Southard Hoffman, clerk of the district court of the United

States for the northern district of California, do hereby certify the foregoing and hereunto annexed twenty-three (23) pages, numbered from one (1) to twenty-three (23), respectively, constitute the transcript on appeal from said district court to the circuit court of the United States for the ninth circuit and northern district of California in the matter of Leong Moy Qui, No. 8828, on *habeas corpus*.

In witness whereof I have hereunto set my hand and [SEAL.] affixed the seal of said court, at San Francisco, in said district, this 8th day of October, 1890.

SOUTHARD HOFFMAN,
Clerk U. S. District Court, Northern District of California,
By —— ——, *Deputy Clerk.*

(Endorsed:) Transcript on appeal. Filed October 9, 1890. L. S. B. Sawyer, clerk.

29 *Judgment of Remand.*

In the Circuit Court of the United States, Northern District of California.

In the Matter of LEONG MOY QUI on *Habeas Corpus*. No. 11020.

This matter having been regularly brought on for hearing before the court and the judge thereof upon appeal from the U. S. district court for this district, the United States attorney having appeared and intervened on behalf of the United States, and the same having been duly heard and submitted and due consideration thereon had, it is by the court now here considered—

That Leong Moy Qui, in whose behalf the writ of *habeas corpus* herein was sued out, was not at the date of the petition herein illegally restrained of her liberty as therein alleged.

It is further adjudged and found that she came from China by the steamship Rio de Janeiro and is a Chinese person forbidden by law to land within the United States and has no right to be or remain therein.

It is therefore ordered that the said Leong Moy Qui be remanded by the United States marshal for the northern district of California to the custody whence she was taken, to wit, on board the said steamship, to the custody of the master of said steamship, or, in case of a change of master, to the custody of the master thereof, whoever he may be at the time of this order of remand, or to place her in the hands and charge of any party on board said steamship for the time being representing the master or then in charge of said steamship in the absence of the master, or for the time being exercising control or authority thereon; this order to be executed as to said steamship whether still in port, not having departed therefrom, or having departed and returned since the proceedings herein were instituted; and in case said steamship has departed and not returned, or for any other reason the said Leong Moy Qui cannot be placed on said steamship, that the said marshal place her upon any other vessel available for the purpose, paying the necessary passage-money,

for the purpose of deporting her out of the United States and transporting her to the port whence she came; and, for the purpose of carrying this order into effect, it is further ordered that the said marshal take the said Leong Moy Qui into custody and her safely keep till said order shall be fully executed.

Entered this 22 day of December, 1890.

L. S. B. SAWYER, *Clerk.*

30 I, L. S. B. Sawyer, clerk of the circuit court of the United States for the northern district of California, do hereby certify the foregoing to be a full, true, and correct copy of an original judgment of remand entered in said court in the within-entitled matter.

Attest my hand and seal of said circuit court this 22d day of December, A. D. 1890.

L. S. B. SAWYER, *Clerk,*
By —— ——, *Deputy Clerk.*

(Endorsed:) No. 11020. United States circuit court for the northern district of California. *In re* Leong Moy Qui on *habeas corpus.* Certified copy judgment of remand. Filed December 22, 1890. L. S. B. Sawyer, clerk, by —— ——, deputy clerk. Entered in Judgment Register No. —, p. —.

31 *Clerk's Certificate to Judgment-Roll.*

I, L. S. B. Sawyer, clerk of the circuit court of the United States for the ninth judicial circuit, northern district of California, do hereby certify that the foregoing papers hereto annexed constitute the judgment-roll in the therein-entitled matter.

Attest my hand and seal of said circuit court this 22nd day of December, 1890.

L. S. B. SAWYER, *Clerk,*
By F. D. MONCKTON,
Deputy Clerk.

Endorsed: Judgment-roll. Filed December 22, 1890. L. S. B. Sawyer, clerk, by F. D. Monckton, deputy clerk.

32 At a stated term, to wit, the February term, A. D. 1891, of the circuit court of the United States of America of the ninth judicial circuit in and for the northern district of California, held at the court-room, in the city and county of San Francisco, on Saturday, the 7th day of March, in the year of our Lord one thousand eight hundred and ninety-one.

Present: The Honorable Thomas P. Hawley, U. S. district judge for the district of Nevada.

Order Allowing Appeal.

In the Matter of LEONG MOY QUI on *Habeas Corpus.* No. 11020.

Good cause being shown therefor, on motion of A. P. Van Duzer,

Esq., counsel for petitioner, it is ordered that all proceedings in this matter be stayed until the further order of this court, and an appeal is hereby allowed to the Supreme Court of the United States, and the bond for costs on appeal is fixed at $300.00.

33 *Bond on Appeal.*

In the Circuit Court of the United States of America of the Ninth Judicial Circuit in and for the Northern District of California.

In Re LEONG MOY QUE on *Habeas Corpus.* No. 11020.

Bond on appeal (for costs).

Know all men by these presents that I, Leong Moy Que, as principal, and Wah Kee, of No. 800 Washington St., and Lee Gim, No. 65 Spafford alley, as sureties, are held and firmly bound unto the United States of America, the intervenor in the above-entitled matter, in the sum of three hundred dollars, lawful money of the United States of America, to be paid to the said United States of America, its executors, administrators, or assigns; for which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our and each of our heirs, executors, and administrators, firmly by these presents.

Sealed with our seals and dated the 7th day of March, one thousand eight hundred and ninety-one.

Whereas the petitioner herein, Leong Moy Que, has taken an appeal to the Supreme Court of the United States to reverse the final decision and judgment rendered and ordered in the above-entitled matter by the above-named circuit court:

Now, therefore, the condition of the above obligation is such
34 that if the said Leong Moy Que shall prosecute her said appeal to effect and answer all costs if she shall fail to make her plea good, then this obligation to be void; otherwise to remain in full force and virtue.

WAH (Chinese sig.) KEE.
YEE GIM.

Acknowledged and signed, sealed, and delivered in the presence of—

F. D. MONCKTON,
Commissioner U. S. Circuit Court,
Northern District of California.

UNITED STATES OF AMERICA,
Northern District of California, City and County of San Francisco, } *ss:*

Wah Kee and Yee Gim, the sureties to the foregoing bond, being first duly sworn, depose and say, each for himself, that he is a householder in said city and county of San Francisco; that he is worth the sum of three hundred dollars over and above all his debts and liabilities and property exempt from execution.

WAH (Chinese sig.) KEE.
YEE GIM.

Subscribed and sworn to before me this 7 day of March, 1891.

F. D. MONCKTON,
Commissioner U. S. Circuit Court,
Northern District of California.

35 The form of the within bond and the sufficiency of the sureties thereon are hereby approved.

WILLIS G. WITTER,
Ass't U. S. Att'y.

I hereby certify that I personally know each of the persons named in and who signed the within bond as sureties; that the name therein set forth and signed by him is the name by which he is generally known; that he is connected with the firm therein named as therein stated, and that I believe him to be amply worth the penalty thereof, exclusive of property exempt from execution and over and above all his just debts and liabilities.

STONEHILL & WHALEY,
Attorneys for Petitioner.

Approved:
HAWLEY, *Judge.*

Endorsed: Filed March 9, 1891. L. S. B. Sawyer, clerk.

36 In the Circuit Court of the United States, Ninth Judicial Circuit, Northern District of California.

In the Matter of LEONG MOY QUI on *Habeas Corpus.* No. 11020.

I, L. S. B. Sawyer, clerk of the circuit court of the United States of America of the ninth judicial circuit in and for the northern district of California, do hereby certify that the foregoing thirty-five written and printed pages, numbered from 1 to 35, inclusive, are a full, true, and correct copy of the record and of all the proceedings in the above-entitled matter, and that the same together constitute the transcript on appeal to the Supreme Court of the United States.

Seal U. S. Circuit Court, Northern Dist. Cal.

In testimony whereof I have hereunto set my hand and affixed the seal of said circuit court this 19th day of March, A. D. 1891.

L. S. B. SAWYER,
Clerk U. S. Circuit Court, Northern District of California.

37 UNITED STATES OF AMERICA, *ss:*

To the United States of America an- Charles A. Garter, Esq., United States attorney for the northern district of California, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be held at the city of Washington, in the District of Columbia, on the ninth day of May, A. D. 1891, pursuant to an order allowing an appeal to the Supreme Court

of the United States from the judgement of remand entered in the matter entitled "*In re* Leong Moy Que, No. 11020," by the U. S. circuit court of the ninth circuit, northern district of California, to show cause, if any there be, why the judgment in the said matter mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the Honorable Thos. P. Hawley, judge of the district of Nevada, assigned to hold and holding United States circuit court for the northern district of California, this ninth day of March, A. D. 1891, and of the Independence of the United States the one hundred and — (115th).

THOMAS P. HAWLEY, *U. S. Judge.*

38 [Endorsed:] R. 11020. In the Supreme Court of the United States. *In re* Leong Moy Que, *habeas corpus.* Citation. Service of the within citation admitted March 9th, 1891. W. G. Witter, as't U. S. attorney. A. P. Van Duzer, att'y for petitioner. Stonehill & Whaley, of counsel. Filed March 9, 1891. L. S. B. Sawyer, clerk c't c't U. S., by F. D. Monckton, deputy clerk.

Endorsed on cover: Case No. 14,546. N. California C. C. U. S. No. 1083. Leong Moy Que, appellant, *vs.* The United States. Filed March 30, 1891.

Supreme Court of the United States.

OCTOBER TERM, 1890.

In the matter of LEONG MOY QUI *on habeas corpus*, No. 1681

On appeal from United States Circuit Court, Northern District of California.

Motion to Admit Prisoner to Bail.

Now comes petitioner, by Counsel, E. B. Stonehill and Wm. H. Lamar, and moves this court to admit Leong Moy Qui to bail, and to fix the amount of bail under the second and third sections of rule 34 of this court.

Statement of Facts and Object of Motion.

On September 11, 1889, one Chum Wing On filed the following petition in the district court of the United States for the northern district of California:

In the matter of Leong Moy Qui on *habeas corpus*. [Picture of petitioner.]

To the Hon. OGDEN HOFFMAN, Judge of the District Court of the United States, Northern District of California.

The petition of Chun Wing On respectfully shows:

That Leong Moy Qui is unlawfully imprisoned, detained, confined and restrained of his [her] liberty by Captain Ward master of the steamship Rio de Janeiro, in the city and county of San Francisco, State of California, northern district of California.

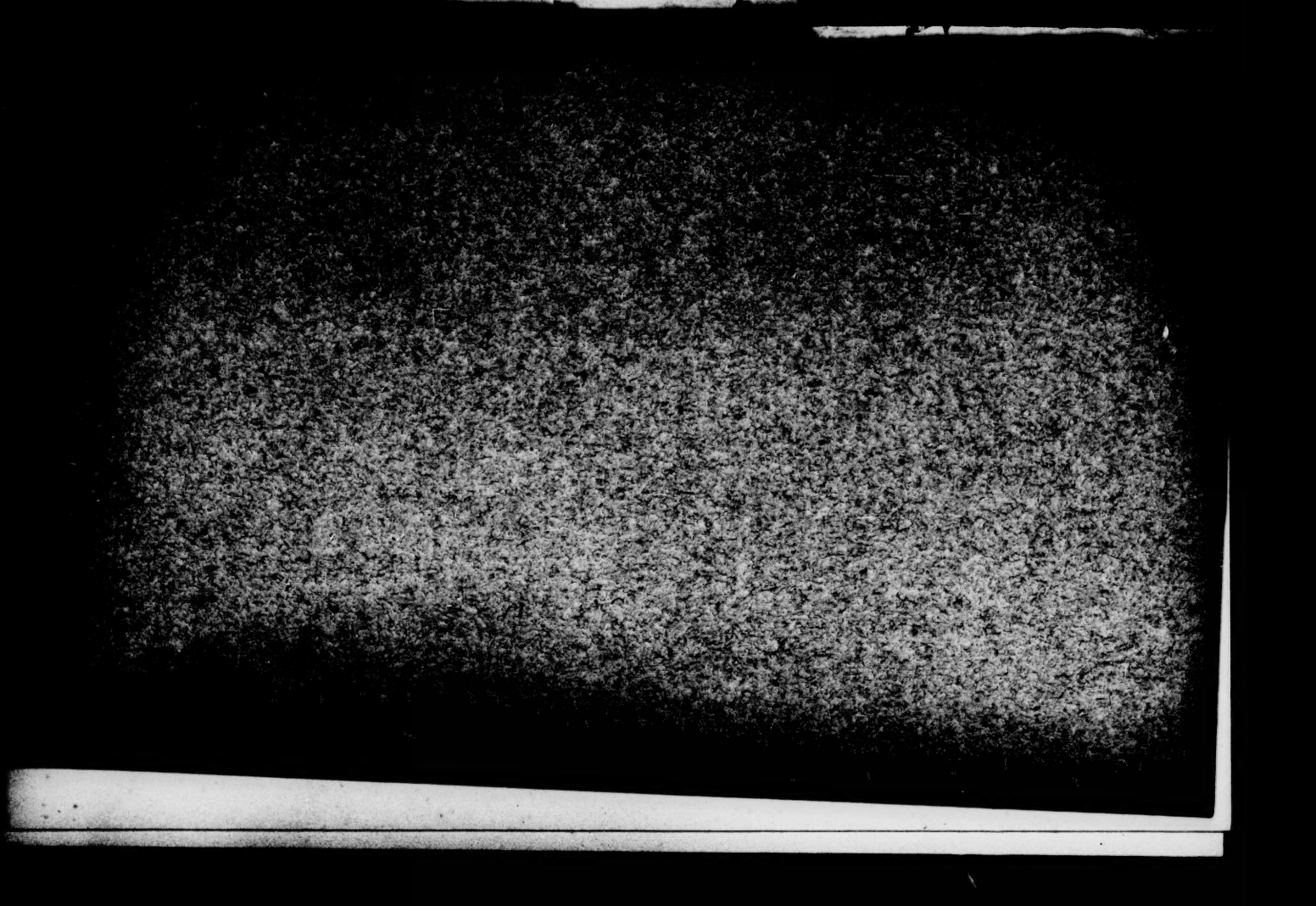
In the Supreme Court of the United States.

OCTOBER TERM, 1893.

LEONG MOY QUE, APPELLANT,
vs.
THE UNITED STATES.
No. 418.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

BRIEF FOR THE UNITED STATES.



In the Supreme Court of the United States.

OCTOBER TERM, 1893.

LEONG MOY QUE, APPELLANT,
vs.
THE UNITED STATES. } No. 418.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

BRIEF FOR THE UNITED STATES.

The appellant, Leong Moy Que, arrived at San Francisco from China in 1889, on the steamship *Rio de Janeiro*. This is a writ of habeas corpus sued out against the master of the ship in aid of the appellant's claim of right to enter the United States. The appellant insists upon the right to land on the ground that she is a native of San Francisco; that she had lived there from her birth until September 20, 1881, and that she sailed on that day from San Francisco to China on the steamship *Garlic*, and was now returning.

If these allegations were true she would bring herself within the decision in *Chew Heong* vs. *United States* (112